

FINAL BILL REPORT

SB 5048

C 138 L 21
Synopsis as Enacted

Brief Description: Concerning reinsurance agreements.

Sponsors: Senators Mullet and Das; by request of Insurance Commissioner.

Senate Committee on Business, Financial Services & Trade
House Committee on Consumer Protection & Business

Background: Credit for Reinsurance. Reinsurance is an insurance product purchased by an insurance company to pass some of the risk assumed by the insurance company to the reinsurer. The insurer that transfers the risk to the reinsurer is the ceding company. The reinsurer, the assuming company, accepts the risk. The ceding insurance company's exposure to financial loss is thereby reduced. Credit for reinsurance is an accounting procedure that permits a ceding company to treat amounts due from reinsurers as assets or reductions from liability. This improves the reported financial condition of the ceding insurance company in its annual statement. Credit for reinsurance is allowed only when specified standards are met. In 2015, the Legislature passed the National Association for Insurance Commissioner's Credit for Reinsurance Model Law.

National Association of Insurance Commissioners. The National Association of Insurance Commissioners (NAIC) is an association composed of elected and appointed insurance regulators from the states and territories of the United States. The Office of the Insurance Commissioner (OIC) is a member of NAIC.

Dodd-Frank Wall Street Reform and Consumer Protection Act, the Covered Agreements, and Federal Preemption. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2011 allowed for bilateral agreements between the European Union and the United States—the Covered Agreements—regarding qualifying reinsurers. The Covered Agreements ensure that no reinsurance collateral obligations be applied to qualifying reinsurers. Effective September 1, 2022, the federal government may preempt any inconsistent state law that treats a qualified non-United States reinsurer under the Covered Agreements less favorably than a United States insurer licensed in the state.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

In 2019, NAIC adopted amendments to their Credit for Reinsurance Model Law—the 2019 Amendments to the Credit for Reinsurance Models—that reflect the Covered Agreements. States that do not adopt the 2019 Amendments to the Credit for Reinsurance Models will lose NAIC accreditation and have their state laws regarding reinsurance preempted by the federal government.

Summary: Certain requirements on assuming insurers—reinsurers—located and licensed in a reciprocal jurisdiction, as brought forward by NAIC as amendments to the Credit for Reinsurance Model Law are established.

A reciprocal jurisdiction is one that is:

- located outside the United States and is subject to an in-force agreement with the United States;
- located within a United States jurisdiction that meets requirements for accreditation by NAIC's financial standards and accreditation program; or
- from a qualified jurisdiction, as currently set forth in statute and determined by the OIC.

In addition to being located and licensed in a reciprocal location, other requirements are established including, but not limited to, sharing certain financial information with the OIC pertinent to the reinsurance agreement.

The OIC must create a list of reciprocal jurisdictions which includes those listed by NAIC. The OIC must also list reinsurers that have satisfied the required conditions and to which cessions shall be granted credit. A jurisdiction may be removed by the OIC if they no longer meet the necessary requirements. Upon removal, the credit for reinsurance ceded to a reinsurer shall be allowed if otherwise allowed in state law.

Credit for reinsurance is allowed only for reinsurance agreements entered into, amended, or renewed on or after the effective date of this act, and only if the losses have occurred within a certain time period on or after the reinsurer met all its obligations. Losses must have been incurred, and reserves reported, when either the reinsurer met all eligibility requirements or the effective date of the new reinsurance agreement, whichever is later.

The OIC may adopt rules applicable to reinsurance agreements relating to certain life and health insurance and annuity products where the NAIC adopts model regulatory requirements regarding credit for reinsurance. A rule may apply to life and universal life reinsurance policies contained in treaties issued on or after January 1, 2015. Rules regarding those same reinsurance agreements may not be applicable to cessions to a reinsurer under certain conditions. Those conditions include whether a reinsurer is located and licensed in a reciprocal jurisdiction and the Covered Agreements apply, are otherwise allowed to be a reinsurer under state law, or whether the reinsurer:

- maintains at least \$250 million in capital and surplus in accordance with NAIC's

- accounting practices and procedures manual; and
- is licensed in at least 26 states or licensed and accredited in a total of at least 35 states and maintains licensure in at least 10 states.

Rules adopted by the OIC may require a ceding insurer, when calculating the amounts or forms of security required, to use the valuation model adopted by NAIC. The authority to adopt rules regarding reinsurers is not limited otherwise by the OIC's general authority to adopt rules.

Votes on Final Passage:

Senate	49	0
House	96	1

Effective: July 25, 2021